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Charles S. Hyneman

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Political and Administrative Reform in the 1940 Legislature

CHARLES S. HYNEMAN*

Governmental institutions and political ways are constantly in process of reformation. From time to time the normal glacier-like pace gives way to the headlong rush of an avalanche. The 1940 legislature of Louisiana was caught in such a forward sweep and contributed its part to a landslide of administrative and political reform.

Administrative and political reform pushed forward in four principal directions: (1) reorganization of the state administrative services, (2) electoral reform, (3) safeguards against venality of public officials, and (4) improvement of local government. The new legislation directed toward these ends was supplemented by other acts designed in other ways to further responsible government in Louisiana. Three of these subjects are discussed in the succeeding pages; the efforts to safeguard against graft and other dishonest practices are treated in another article.¹

STATE ADMINISTRATIVE REORGANIZATION

Three major acts, two important constitutional amendments, and a number of statutes of lesser importance combined to achieve one of the most sweeping programs of administrative reform that has been attempted by any state legislature during the present century. The three important acts are: (1) The Administrative Code of 1940 (Act 47), (2) The Fiscal Code of 1940 (Act 48), and (3) The State Civil Service Law (Act 172). These three statutes are supported by, and depend in large part for their effectiveness upon, two proposed amendments to the constitution: (1) an administrative reorganization amendment (Act 384) which, if adopted, will write the basic features of the administrative and fiscal codes into the constitution; and (2) a civil service amendment (Act 381) which proposes to ratify and affirm the Civil Service Law and protect it from amendment or repeal

* Professor of Government and Director of Bureau of Government Research, Louisiana State University. Credit is due Wesley Wirtz, Assistant in the Bureau of Government Research, for aid in analysis of statutes.

1. Bugea, Lazarus, and Pegues, *Louisiana Legislation of 1940* (1940) 98, 149 et seq.

except upon a two-thirds vote of the legislature. These three acts and two amendments combine to achieve three objectives. First, they join the offices and agencies of the state into a unified administrative service under the supervision and direction of the chief executive. Second, they establish safeguards over the handling of public money. And, third, they seek to substitute scientific personnel administration for political control of positions in the public service of the state. An adequate analysis of these three objectives necessitates an inquiry into another matter about which the legislature appears to have been less concerned, viz., fourth, the responsibility of the executive and administrative machinery to the people.

The Establishment of a Unified Administrative Service

The Administrative Code of 1940 catches in its net every state administrative office and agency and allocates it to its proper place in an integrated administrative structure. Twenty administrative departments are created, and four independent establishments are recognized. Each department is to be under the direct management and supervision of the Governor, and the independent establishments, while made essentially independent of the Governor, are fitted definitely into the administrative structure. The executive branch of the state government, according to the proposed amendment, shall not at any time in the future exceed twenty departments and three independent establishments, and all executive and administrative functions which may be authorized by law "shall be divided among the agencies of the administrative service provided by this section."²

The twenty departments which are created by the new administrative code are: (1) Revenue, (2) Treasury, (3) Finance, (4) State, (5) Education, (6) Occupational Standards, (7) State Lands, (8) Agriculture, (9) Labor, (10) Banking, (11) Public Service, (12) Public Welfare, (13) Institutions, (14) Health, (15) Public Safety, (16) Highways, (17) Public Works, (18) Conservation, (19) Minerals, and (20) Military Affairs.³ The four independent establishments are: (1) Louisiana State University and Agricultural and Mechanical College; (2) Department of State Civil Service (so named by the State Civil Service Law, but called Department of Personnel by the Administrative Code, and

2. La. Act 384 of 1940, § 3(a).

3. La. Act 47 of 1940, tit. III, § 1; La. Act 384 of 1940, § 3(d).

called by both names in the Administrative Reorganization Amendment); (3) Auditor of State; and (4) Attorney General.⁴

The plan originally drawn up by the firm of consultants that worked out the program of administrative reorganization called for each of the administrative departments to be headed by an officer appointed by the Governor for indefinite tenure and subject to removal only for cause. The reorganization plan as thus conceived anticipated that the heads of departments would be selected because of their competence as administrators and capability in management—that they would be chosen neither because they were political supporters of the chief executive nor because they were especially devoted to the legislative and administrative program which the Governor was pledged to inaugurate or carry through. The test of fitness for headship of a department being capacity for administrative management, it was hoped that appointees to these positions would be continued in office during succeeding gubernatorial administrations. Ouster from office was therefore made possible only through the process of removal for cause, after a public hearing.

In providing for such a relationship between the Governor and department heads, the original plan of the technicians ran contrary to that which has been effected in other states of the Union during the past quarter century. In all the other state reorganizations the basic assumption has been that the officers who direct the work of major departments (and therefore occupy positions of strategic importance in the determination of public policy) ought to be immediately under the control of the Chief Executive. To this basic principle certain exceptions have been

4. The proposed Reorganization Amendment (La. Act 384 of 1940) states that Louisiana State University and the Department of Civil Service are "independent establishments of the Executive Department" (id. at § 3(d)), but states elsewhere that the executive department shall include three independent establishments. "The executive department shall consist of the Governor and the Office of the Governor, not to exceed twenty administrative departments, and three independent establishments, all of which together shall be known as the administrative service" (id. at § 3(a)). The Administrative Code (La. Act 47 of 1940) nowhere refers to any specific agency as an independent establishment but Title XXIV of the act, entitled "Independent Establishments" contains provisions governing Louisiana State University, the "Department of Personnel," and the Auditor of State, the latter specifically declared to be an agency of the legislative department and "entirely dissociated from the administrative and executive agencies." The office of Attorney General is continued in existence but it is not included among the twenty departments, nor made a part of any one of them, nor is it listed as an independent establishment. In view of the failure to bring the Attorney General directly under the control of the Governor and place him in the executive cabinet, it seems necessary to conclude that the office of the Attorney General is an "independent establishment."

made in different reorganization programs. The regulation of public utilities, notably, has been insulated against the Governor's dictation by provision for a commission of overlapping terms protected from removal because of disagreement with the Governor as to desirable regulatory policy. But the notion that important policy-making agencies ought to be independent of the Chief Executive has been the exception rather than the rule in recent state reorganizations.⁵ And the very important Committee on Administrative Management appointed by President Roosevelt in 1937 to make recommendations for the reorganization of the national administrative branch, proposed that the "independent" commissions be abandoned for the most part and that control of the important government services be given to administrative officers directly or indirectly responsible to the President for the policies which they pursue.⁶

The original proposal for Louisiana, placing the heads of the administrative departments on a "civil service" basis thus stood out in striking contrast to the general tendency of administrative reorganization in the American states and to the recommendations of President Roosevelt's Committee on Administrative Management. At one point or another en route from conception by the technical consultants to enactment by the legislature, this feature of the reorganization proposal was modified, if not abandoned. First, the idea that each of the department heads should be appointed by the Governor yielded to a demand that the elective officials of the state be continued and be given direction of important departments of government. As a result of this compromise five of the twenty departments are under elected officials and one of these five officials heads a department that might well have been absorbed into one or more of the other departments.⁷

5. Buck, *The Reorganization of State Administration in the United States* (1938); Carleton, *The Reorganization and Consolidation of State Administration in Louisiana* (1937) 16-45; Hyneman, *Administrative Reorganization: An Adventure into Science and Theology* (1939) 1 *J. of Politics* 62.

6. President's Committee on Administrative Management, *Report of the Committee with Studies of Administrative Management in the Federal Government* (1937) 41, 231.

7. The five elected officials and their departments are: (1) Treasurer, Department of Treasury; (2) Secretary of State, Department of State; (3) Superintendent of Public Education, Department of Education; (4) Registrar of the State Land Office, Department of State Lands; and (5) Commissioner of Agriculture and Immigration, Department of Agriculture. In addition to these five exceptions to the rule of appointive single officers for department heads, note the Department of Public Service. The Public Service Commission is the head of the department, but the Director of Public Service (pre-

The principle of indefinite tenure for department heads survived longer in the legislative process than the idea of appointive heads for all departments. That principle yielded to attack also, however, and both Administrative Code and Reorganization Amendment specify four year terms for the fourteen appointive directors of departments.⁸

Another basic feature of the original plan for a unified administrative service was the establishment of an executive cabinet, served by a technical staff and charged to discuss and decide "matters involving general administrative policies and procedures, interdepartmental relations, and desirable measures of cooperation between departments."⁹ This language is broad enough to suggest that the cabinet was envisaged as a body to advise the Governor on the basic policies of his administration. When one associates this "charter" of the cabinet with the principle of indefinite tenure and removal only for cause, it seems more probable, however, that the cabinet was expected to confine itself to consideration of ways of increasing administrative efficiency and economy. Whatever the hopes and objectives which led the consulting technicians to propose a periodic assemblage of department heads, it is impossible to foretell the rôle which that institution will play. Instead of facing, in addition to his legal counsel, twenty career men whose entrance to office may long antedate his own, the Governor will confront, in cabinet meeting, fourteen of his personal appointees, five elective officials, and a man chosen (presumably) by the Public Service Commission. Such an assemblage may provide a service of great usefulness; it is not likely to function in accordance with the preconception of the technicians who drew the original bill.¹⁰

An item of great significance in the plan for a unified administrative service is the use of boards and committees. Most of the comprehensive reorganizations during the past quarter century have made sparing use of boards and commissions; the principle of single officers, arranged in hierarchy, has predominated. The Louisiana reorganization, as planned by the technical con-

sumably to be appointed by the Commission) shall be its executive officer and "shall exercise the functions of the department, other than those of the Public Service Commission." La. Act 47 of 1940, tit. XIV, §§ 3-5.

8. La. Act 47 of 1940, tit. III, § 2; La. Act 384 of 1940, § 3 (proposed new Section 26 of Article V of the constitution).

9. La. Act 47 of 1940, tit. II, § 4.

10. The cabinet is established in La. Act 47 of 1940, tit. II, §§ 4-5; also by La. Act 384 of 1940, § 3 (proposed new Section 25 of Article V of the constitution).

sultants and approved by the legislature, provides for a number of boards and committees in the several departments. The original plan seems to have contemplated two kinds of plural agency: (1) boards charged with broad powers of control over one or more administrative departments, and having, in some instances, certain administrative duties, and (2) advisory committees. The process of compromise which followed the drafting stage produced a third type of board, viz., (3) boards charged with important administrative power but not given control over the work of a department.

The first type of board (referred to hereafter as a "general departmental board") is fairly well standardized in form and functions, though there are some important variations from department to department. There will ordinarily be three, six or nine members on the general departmental board, each appointed by the Governor (Senate consent not required) for terms of nine years, one-third of the members retiring every three years. No member may hold any other public office or be a candidate for public office during his tenure as a board member. Compensation shall not exceed twenty dollars per diem.¹¹

The "additional" administrative duties of a board will depend upon the particular governmental service with which it is associated. The Board of Revenue, which is the general departmental board of the Revenue Department, when it comes into its full power, will exercise both the tax appeals functions of the former Board of Tax Appeals, and the assessment, review, and equalization functions of the present Tax Commission. The Board of Insurance, in the Department of State, will have the rate-making power now lodged in the Louisiana Casualty and Surety Rating Commission. Certain of the very important powers of the Board of Finance (attached to the Department of Finance) will be mentioned later.

In addition to its specific administrative duties, such as those mentioned in the preceding paragraph, every general departmental board has important powers of control over the department in which it is located. Each such board is given representative, investigatory, advisory, rule-approving, fact-determining, and appeal and review functions. It may investigate and report to the Governor or legislature on "the wisdom and efficacy

11. La. Act 47 of 1940, tit. III, § 10; La. Act 384 of 1940, § 3 (proposing new Section 27 of Article V of the constitution).

of the policies, plans, and procedures of the department in effect within the scope of its [the board's?] functions."¹²

"Each board of a department shall determine the facts and make decisions in cases brought before it on the record or for hearing by the head of the department in any matter involved in the conduct of the business of the department. Each such board shall have power to hear and determine appeals from any acts done or decisions made by the head of the department or under his authority, and to act as a board of review thereupon. The decisions of the board of a department in any such matters of appeal and of reference by the head shall be binding, subject to all rights of action and judicial review provided by law. In the exercise of its functions, no board of a department shall be subject to control by the head of the department."¹³

But "Except as expressly provided herein, with respect to any department, neither the board of any department nor any member thereof shall have power to prescribe or direct the conduct of any work of the department nor the action of the head of the department or any subordinate employee thereof in any matter or case. Nor shall any such board have power to take any action except by vote in meeting assembled."¹⁴

It is impossible to foretell the sweep of control over departmental activities which custom and the judiciary, proceeding from the foregoing language, will give to the general departmental board. It may have been the wish of the technicians to limit the investigative and review power of the board to those questions over which the board has direct administrative authority. On the other hand it may develop that the general departmental board will be a constant check on arrogance and irresponsibility in any phase of the department's affairs. It may develop, for instance, that the Board of Finance, which has no direct power over the audit of local government accounts, will become an appellate body to hear complaints from local officials dissatisfied with the auditing practices of the department.¹⁵ The

12. La. Act 47 of 1940, tit. III, § 10(f).

13. Id. at § 10(h).

14. Id. at § 10(i).

15. The Board of Insurance in the Department of State seems to have supervisory power in relation to insurance matters only; the Board of Finance in the Department of Finance, on the other hand, seems to have a broader grant of power. Compare La. Act 47 of 1940, tit. VII, § 5 (Board of Insurance) with id. at tit. VI, § 5 (Board of Finance).

importance of such a development in control of administrative agencies will be discussed below.¹⁶

The Administrative Code and the Reorganization Amendment actually create no advisory committees, the second type of plural agency mentioned above. The Governor and the heads of departments are authorized to appoint such committees as they deem advisable, to render advice to the authorities appointing them on any designated matters within the jurisdiction of the one making the appointment. Such committees are to exist for one year only but may be reconstituted; the members will serve without compensation.¹⁷

The third type of plural agency was added to the reorganization plan after it first came from the hands of the technicians. The seven occupational and professional license boards listed in Section 7 of Title IX of the Administrative Code supply excellent examples. The technicians would have reduced each of these licensing agencies to the status of a general departmental board—having the authority of a general departmental board in respect to certain activities of the Department of Occupational Standards, but having no direct administrative functions other than those necessarily involved in determining who has proved his right to obtain and retain a license. The technicians were forced to yield. The seven boards listed in Section 7 of Title IX will retain “all the powers and duties heretofore to them appertaining”¹⁸ and nothing in the Administrative Code shall authorize the Director of Occupational Standards or any other officer or agency of the state to “regulate or direct” the manner in which these boards perform their functions.¹⁹ They do not have the supervisory powers of general departmental boards.

The fourth basic feature of the plan for a unified administrative service is the establishment of central control over employment and expenditures. The device of central employment and expenditure control ties the objective of a unified administrative service directly into two other objectives of the entire

16. *Infra*, pp. 23-26.

17. La. Act 47 of 1940, tit. III, § 10(b), (c).

18. *Id.* at tit. IX, § 7.

19. *Ibid.* The Board of Barber Examiners will thus exercise the great body of regulatory power vested in it by La. Act 247 of 1928 as amended by La. Act 126 of 1932 [Dart's Stats. (1939) §§ 9367-9386]. Under the original plan the Board of Public Service, charged with utility rate-making and certain other regulatory powers, was to be a general departmental board. The status accorded it in the Administrative Code and Reorganization Amendment is anomalous. Note 7, *supra*.

state administrative reorganization program which will be discussed later, viz., the establishment of safeguards over the handling of money, and the termination of political control over employment.

Central employment control will be effected through the Department of State Civil Service. Except for a limited number of positions, all places in the service of the state will be filled by a process of examination for fitness and certification of eligibility for appointment. The Director of Personnel in the Department of State Civil Service has power to classify positions and fix scales of pay. Examinations to determine fitness for positions is expected to assure competent service from employees. Classification of positions and standardization of pay are expected to facilitate promotions and transfers within the service. The extent to which these hopes are realized will determine in no small part the success of efforts to create a unified state administrative service.²⁰

The Departments of Revenue, Treasury, and Finance are the principal agencies for control over the handling of money. The collection of taxes and other revenues is centralized, with very few important exceptions, in the Department of Revenue. Monies collected will be turned over to the Department of Treasury for safekeeping and disbursement. The Department of Finance will regulate the flow of money out of the Treasury. Control of the expenditure of money is probably the best device that has been found for subjecting the entire machinery of government to a common purpose. Under the new Louisiana program this task will fall mainly on the Department of Finance, and be borne principally by three of its divisions: Budget, Accounts and Control, and Purchases and Property Control.

It is the function of the Budget Division to prepare a program of proposed expenditures and revenues which, if adopted by the legislature, will best compromise the needs of the various state services with the tax burden which the Governor believes the people ought to be asked to bear. Heretofore such budget as the State of Louisiana has had, has been prepared under the direction of the Tax Commission. It has been at best a hodgepodge of guesses at future needs; in no instance has it approached the character of a studied financial plan. Henceforth, the Governor, with the advice and assistance of the director of finance

20. Discussed at greater length, *infra*, pp. 20-22.

and the budget officer, will prepare and submit to the legislature a two-year proposal for the income and outgo of the state.²¹ In making these preliminary steps toward the legislative appropriations, the Governor will effectively determine the financial resources of any department and thereby establish limits to its possible program. In putting this potent instrument—the executive budget—in the hands of its Governor, Louisiana falls in line with a movement which has been one of the most striking characteristics of a quarter-century of administrative reform.²²

The legislative appropriations are to be addressed to the various departments, but the utilization of the appropriations will be subject to continuous control by the budget officer and, so far as he is responsive to suggestions or instructions, subject to control by the Governor. The budget officer is required, in consultation with department officials, to prepare from time to time careful estimates of the portion of the available appropriation which will be needed during the ensuing three-month period. Once a quarterly allotment has been agreed upon and announced, expenditures may lawfully be made only within its terms. It is not intended by the statute that this allotment power shall be used for punitive purposes. It is expected, however, that the budget officer will use that power to induce department officials to conform more closely to the Governor's ideas of sound governmental policies than they would otherwise. If at any time the anticipated revenues of the state should not be forthcoming, and the state of the treasury should become insufficient to meet the appropriation demands, the budget officer will be expected to use his allotment power to husband the available resources.²³

In order further to insure that the entire administrative system will be operated as a common enterprise, all purchases, construction, and letting of contracts shall be by, or under the control of, the Department of Finance, acting through its Division of Purchases and Property Control. The cost of state government is centered almost altogether in payments for personal services, supplies, materials, and construction projects. In authorizing the Department of State Civil Service to fix scales of pay for employees, and authorizing the Department of Finance to make purchases and let contracts, the reorganization program

21. La. Act 48 of 1940, tit. II, § 1.

22. *Id.* at tit. II. Cf. Buck, *The Budget in Governments of Today* (1934); Lutz, *Public Finance* (1936) c. 35.

23. La. Act 48 of 1940, tit. II, §§ 16-18. But note the power of the Board of Finance to review as provided in Title II, Section 24.

makes an enormous stride toward an integrated administrative system.²⁴

Whatever the foregoing powers may fail to accomplish in the drive toward a centralized administrative machine is surely won by a broad grant of power to the Director of Finance. Whenever the Director deems that he has reason to believe that there has been any mismanagement of any of the financial affairs of the state by anyone in the state service who is responsible for the management of state funds, it shall be his duty to make an investigation. If his investigation reveals that any person has grossly mismanaged state financial affairs entrusted to him, the Director shall so report to the Governor and recommend removal of the offending person. The Governor in turn shall look into the matter and if he finds such person guilty of mismanagement or to have proceeded wilfully in violation of law, he may instruct the Director of Finance to "withhold appropriations" from the offending official or department. In case appropriations cannot be withheld without endangering the public peace or the welfare of the inmates of state institutions, the Director of Finance may "expend the sums provided by such appropriations for the purposes for which the appropriations were made until the conditions which necessitated such a course have been remedied to the satisfaction of the Governor."²⁵

Such are the basic features of the plan for a unified administrative service. The Chief Executive who can command the concerted activities of such an organization of men has in his possession an enormous power for good or ill. The question of whether the Chief Executive and his chief subordinates can be held responsible to the people for the exercise of these powers will be discussed at a later point.²⁶

Establishment of Safeguards in the Handling of Money

A good deal was said in the foregoing pages about the utilization of central fiscal controls with a view toward achieving

24. *Id.* at tit. VIII. Noteworthy also is the fact that the Director of Finance has a contingent fund from which he may parcel out money to "meet such emergencies as may arise." *Id.* at tit. II, § 4.

25. *Id.* at tit. X, § 6. Although the Fiscal Code does not specifically so state, there can be little doubt that the Board of Finance could hear complaints by administrative officials and departments against actions taken by the Director of Finance under this section. There is no reason to suppose, however, that the Board of Finance could nullify any action admitted to be in conformance with instructions lawfully made under this section by the Governor.

26. *Infra*, pp. 23-28.

a unified administrative system. The Fiscal Code of 1940 contains a great body of regulations intended to introduce sound principles of financial management into the state administrative system, regardless of whether they have any bearing on the integration of the state service. Summarization of these regulations will serve to indicate the major purposes or objectives of those who drew up the Fiscal Code; the nature of financial administration is such that a summarization cannot convey adequate understanding of how these purposes and objectives are to be fulfilled.

As noted above, the Governor, with the assistance of the Department of Finance, is required to prepare a budget for submission at each biennial session of the legislature. The budget will be made up on the basis of estimates submitted by the various administrative agencies and information acquired by the budget officer in other ways.²⁷ The process of preparing estimates and justifying them before a critical budget officer is expected to force the less financially-minded officials of the state to a better understanding, not only of the costs of their respective divisions, but of the whole character of the governmental functions which they perform. Experience in other states demonstrates that this is not a vain hope.

Furthermore, through the preparation of a budget which provides for all income and outgo, the legislature, it is hoped, will be led to a more intelligent adjustment of the state's resources to its governmental needs.

Another device which makes for economy as well as central control is the quarterly allotment system whereby the budget officer releases funds to the departments in accordance with his concept of their needs.²⁸ A particular department head, no matter how wise his general administrative policies, may have little capacity for stretching his appropriations to their maximum use. Every officer with money to spend is frequently coerced or cajoled to spend it contrary to his best judgment. The budget officer, experienced in financial matters and giving his whole attention to expenditure problems, is in a position to counsel wisely and to absorb the shock of pressures which the department head cannot resist. Buckpassing, no matter what its abuses, is nevertheless an indispensable instrument of administration.

27. La. Act 48 of 1940, tit. II, §§ 1-13.

28. *Id.* at tit. II, §§ 16-22.

Central control of purchases and letting of contracts will readily be recognized as a device for effecting economy in government. Under such an arrangement bargaining is done by persons thoroughly acquainted with markets and supplies; purchases in large quantities make possible lower prices; better acquaintance with the specialties, qualities, and whims of contractors results in a more satisfactory construction program and encourages the good will of the construction trade.²⁹

The Division of Accounts and Control in the Department of Finance is pledged to the cause of honesty in the expenditure of public money. The Division is required to install a unified and integrated system of accounts for the entire state service. Heretofore the financial records of any state office could sink as low as the indifference, incompetency, or rascality of the individual responsible would permit. Henceforth the responsibility for maintaining adequate records will lie, not on the department head or spending official, but on the Division of Accounts and Control of the Department of Finance. All purchase orders, whether made by the Division of Purchases and Property or by a department head, will pass through the Division of Accounts and Control for verification as to regularity and availability of funds. All pay rolls must be submitted to the Division for scrutiny, and it will refuse payment of compensation to any person not duly certified as properly appointed to his position. No claim will hereafter be paid by the state treasury except upon certification by the Division of Accounts and Control that the obligation was lawfully incurred and is entitled to payment in the amount indicated.³⁰

The Department of Finance, acting through the Division of Accounts and Control, is thus a central bookkeeping and auditing agency charged to see that the intent of the legislature is constantly respected in the expenditure of appropriations. The Fiscal Code lays a foundation for the best practices of financial administration. The old practice whereby several departments maintained their own checking accounts, overdrew them to the extent that the bank would permit, and occasionally built up a substantial surplus which stood as an endowment—these possibilities are now effectively terminated.

It must be clear from the foregoing that the Director of Finance and his subordinates in the various divisions possess an enormous power to encourage economy and enforce honesty in

29. *Id.* at tit. VIII.

30. *La. Act 47 of 1940*, tit. VI, § 6(b); *La. Act 48 of 1940*, tit. VI, §§ 1-6.

every branch of the government. It is just as obvious that if these officials are concerned to enrich themselves at the expense of the treasury, they are in a magnificent position to do so. To discourage such ambitions and limit such enterprise, two checks are provided—the Board of Finance and the Auditor of State.

The Board of Finance may well become the most powerful of the plural agencies created by the reorganization legislation. It will consist of three members appointed by the Governor for terms of nine years, one member retiring at the end of each three year period. Like other general departmental boards, it has power to investigate complaints and probe on its own initiative into any matters within the scope of the Department of Finance; it can veto any official decision of the Director of Finance or his subordinates; it must pass on the decisions of the Treasurer in choosing depositories of money; it must approve the securities which are offered in guarantee of state deposits; it must be satisfied before the Treasurer can make any investment of the state's surplus money; it can dictate the terms and conditions of every bond issue and important short loan.³¹

The Auditor of State, elected as at present for a four year term, is declared to be an agency of the legislative branch and "entirely dissociated from the administrative and executive agencies."³² It is his business to determine whether the financial practices of the state insure the proper collection and safeguarding of public money. He is to determine whether funds have been spent in conformity with the appropriation acts. He must scrutinize all financial transactions in accordance with the highest standards of independent audit. His findings are to be reported promptly to the Governor and legislature, to whom he may also make recommendations for remedial action. In order that the Auditor's disclosures may not go unobserved by a legislature faced with more responsibility than can possibly be discharged in a sixty day biennial session, the Administrative Code, the Fiscal Code, and the Reorganization Amendment provide for the appointment of a standing audit committee of the legislature—three representatives and two senators appointed by the respective presiding officers. The functions of the committee are comprehensive and important: "to make a critical review of all financial reports by the Auditor of State, and of the Director of Finance, the Controller, and each other fiscal officer of the State,

31. La. Act 47 of 1940, tit. VI, § 5; La. Act 48 of 1940, tit. IX, § 6.

32. La. Act 47 of 1940, tit. XXIV, § 4.

and to investigate all irregularities and unsatisfactory conditions disclosed in such reports"; to make "detailed inquiries" into the costs of government and the wisdom of expenditures; and to recommend legislative action in accordance with the committee's findings and notions of public policy.³³

*Substitution of Scientific Personnel Management
for Political Control of Employment*

Since 1883, when the United States Civil Service Commission was established, the first rather simple ideas of recruitment on a basis of merit have developed into comprehensive if not complicated systems of personnel administration. During the same period the merit principle spread to state and local governments, with the result that in 1940 we have several hundred political jurisdictions which claim to have made substantial progress in driving politics out of public employment.

The Louisiana legislature of 1940 enacted a comprehensive Civil Service Law for the state (Act 172), another of similar character for New Orleans (Act 171), and an act less comprehensive in scope for policemen and firemen in cities of more than 16,000 but less than 100,000 population (Act 253), together with a proposed constitutional amendment to confirm the first two acts and make them subject to alteration or repeal only by a two-thirds vote of the legislature (Act 381). If the personnel systems provided in this legislation are actually inaugurated and decently supported, Louisiana will be in the very forefront of the movement for civil service reform.

The statute and proposed amendment establishing a civil service system for the state must be examined from four points of view: (a) the agency established to force the executive and administrative officials of the state to comply with the law in appointing, promoting and removing public employees; (b) the recruitment methods which are depended upon to bring competent persons into the service of the state; (c) the organization and procedures which are provided to secure a maximum of service out of the state's working force; and (d) the safeguards against use of the state's employees for political purposes.

Before going into these matters, however, two or three things should be said about the general character of the act. In the first place, the new system does not go into full effect until nearly

33. *Id.* at tit. XXIV, § 9. Cf. La. Act 48 of 1940, tit. IX, § 16; La. Act 384 of 1940, § 2 (proposed new Section 43 to Article III of the constitution).

two years after enactment. The Department of State Civil Service is to be organized at once and the Director of Personnel may proceed with classification of jobs and standardization of pay scales. But the provisions requiring appointment and promotion according to merit, forbidding dismissal of employees for political reasons, making illegal certain political activities—these provisions will not become effective until July 1, 1942.³⁴

In the second place, the act does not extend the merit principle to all persons in the public service. Fourteen classes of exempted persons are listed. It will be sufficient to say that they include elective officials; officers and employees of the legislature; employees in the offices of the Governor, the Attorney General, and the Crime Commission; all boards, commissions, and department heads appointed by the Governor and one principal deputy and one private secretary for each; officers and teaching staffs of institutions of higher learning; members of the military force; notaries, judges, referees, receivers, jurors, and certain other officers of the courts; election and registration officials; parish and school board officials and employees; and certain specified professional, scientific and technical men employed for a special or temporary purpose—all these are outside the "classified service" and therefore are not covered by the merit principle.³⁵

Finally it should be noted that the principle of a competitive examination does not apply to those persons who are in the state service on July 1, 1942. Such persons must take and pass a test designed to determine their fitness to perform satisfactorily the duties of their positions, but to pass is enough. For promotions, however, these employees stand on the same footing as those who come into the service subsequently; they must demonstrate superiority over competitors in order to win promotions.³⁶

The four points enumerated above may now be examined.

(a) *The State Civil Service Commission.* Unlike the Administrative Code and the Fiscal Code, which were drafted by a group of technicians, the State Civil Service Law was drafted by a group of Louisiana citizens under the leadership of an able lawyer who had for many years been an advocate of civil service reform. The drafting committee proceeded on the assumption

34. La. Act 172 of 1940, § 48.

35. *Id.* at § 10.

36. *Id.* at § 11.

that successive governors and administrative officials would not be in sympathy with the merit principle and therefore that an agency was needed which could command strong support from public opinion and force unwilling political leaders to comply with the law. Such an agency is created in the statute—the State Civil Service Commission. To insure that members of the Commission will be independent of any political groups and will be firm believers in the principles of a merit system, the law provides a unique method for the selection of commissioners. The presidents of five universities and colleges (Centenary College, Louisiana College, Louisiana State University, Loyola University of the South, and Tulane University) are each required to submit the names of three persons to the Governor. From each of these five panels, the Governor is required to select one person for service on the Civil Service Commission—a total of five members. Vacancies will be filled by the Governor, his choice limited to one of three names submitted as a new panel by that college president from whose list the retiring member had been chosen. An antagonistic governor cannot thwart the law by refusing to make appointments, for the act provides that after a certain lapse of time, the person placed first on the list of any college president shall automatically become a member of the Commission.³⁷

Members of the Commission may hold no other public office or employment (the office of notary public and positions in the naval and military forces excepted) nor seek nomination or election to any public office. Neither shall any member, during a six months period prior to appointment to the Commission, have been a member of a party committee or been prominent in any political club or organization, either as an officer or member of a committee. The term of office is fixed at six years, one member of the Commission retiring during each two years. Compensation is fixed at twenty-five dollars per day, no member to earn more than two thousand dollars in a year. Removal from office may be only for cause, after public hearing by a committee composed of the Governor, Chief Justice of the Supreme Court, and the President pro tem of the Senate.³⁸

The Commission is a supervisory agency; its administrative functions are limited. Its strength and the hope that it can force

37. *Id.* at § 5.

38. *Ibid.*

respect for a genuine merit system lie in five powers: It will appoint the Director of Personnel, who will have extremely important powers over the employment service of the state; it will make rules and regulations governing the employment service; it has power to modify or set aside any action of the Director of Personnel if it finds it desirable or necessary in the public interest to do so; it may restore positions and pay to employees who have been dismissed, reduced in pay, et cetera, without just cause; and it may dismiss from the public service persons who have violated the statutory provisions forbidding political activity.³⁹

In selecting the Director of Personnel, the Commission must make use of an examining committee of three persons supposed to possess special knowledge of personnel problems. This committee, proceeding by a method of examination and scrutiny of records, will determine the three most promising candidates for the position, one of whom the Commission must name as Director of Personnel.⁴⁰ The duties of the Director of Personnel are many and important, and he will be provided with a staff. The range of his activities will be discussed later;⁴¹ at this point it is sufficient to say that if the Commission should ever permit the office to fall under the hands of a political group the entire merit system will be promptly wrecked.

The rule making power of the Commission is all embracing; except where statutory provisions are definitive it can establish regulations controlling every phase of the personnel program. Where rules of general application are ineffective, the Commission can enforce its will through the power to overrule the acts of the Director as not in the public interest. The power of the Commission to redress the grievances of employees and to enforce the provisions against political activities will be discussed later. It may be observed, however, that they add substantially to the authority of the Commission. It is indeed hard to see how the Commission could have been more adequately equipped with power to achieve the objectives of the law. The success of civil service reform in Louisiana clearly depends on the convictions, the firmness, the astuteness of the men and women who are appointed to the Commission, and the support which the people of the state give them in their efforts to improve the state service.

39. *Id.* at § 6.

40. *Id.* at § 7.

41. *Infra*, pp. 20-22.

(b) *Recruitment methods.* Selection of employees for entrance into the public service is governed by two important principles: complete indifference as to the religious convictions and political affiliations of the candidates, and dependence on competitive examinations to determine superior fitness. Both provisions are given clear recognition in the statute.

"No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified service because of his political or religious opinions or affiliations."⁴²

No questions in any examination or test shall be "so framed as to elicit information concerning the political, factional, or religious opinions or affiliations of an applicant."⁴³ If the Commission finds that an employee has been subjected to any disciplinary action (dismissal, demotion, reduction of pay, et cetera) "for religious or political reasons, then the employee shall forthwith be reinstated in his position and be reimbursed for any loss of pay occasioned by such disciplinary action."⁴⁴

Tests for entrance to the service shall be "truly competitive in character."⁴⁵ The word "test" is broadly conceived, including not only written and oral examinations but evidences of educational and professional training, records of performance in previous positions, and similar relevant matters. Classes of persons may be excluded from an examination through the establishment of prerequisites involving such matters as age, sex, previous experience, and so forth. Veterans discharged under favorable conditions from the military and naval services, and the widows of such persons, are given preference in admission to the service. Such persons must meet the minimum standards for the position (except that age limits other than for retirement are not applicable) but having met those standards they shall have added to their earned gradings an additional five points. If the applicant (or the deceased husband in case of a widow) is suffering service-connected disability, the advantage shall be ten points. Whether suffering disability or not, the veteran shall also enjoy an advantage of three points in tests which may be given to determine promotions.⁴⁶

42. La. Act 172 of 1940, § 42(a).

43. Id. at § 20.

44. Id. at § 34.

45. Id. at § 28.

46. Id. at §§ 20, 24(d)-(g).

The position does not go necessarily to the person showing best qualifications. Three names shall be submitted for each position; the employing official may take his choice. Appointments are probationary; the employee must establish his fitness on the job. He is entitled to a sixty day trial, unless the Director of Personnel assents to his discharge after a shorter period. If he is kept for six months, the appointment is complete. If a probationary appointee is dismissed, the employing official must again return to the certification list for the top three candidates. To prevent abuse of this system, the official may not reject more than three persons for a particular position.⁴⁷

It will be seen from the foregoing that there is opportunity for discretion in giving tests and offering employment. The Civil Service Commission is the watchdog charged to discourage abuse.

(c) *Personnel management.* In the minds of many people, the phrase "civil service" is synonymous with security of position, indifference to progress, incompetence and inefficiency. To protect employees from removal for political reasons without guaranteeing them a lifetime hold on their jobs is no easy matter. The solution of this problem is the objective of scientific personnel administration and the business of the Director of Personnel and his staff.

Under the new civil service system the officials of the various departments (Department of Revenue, Department of Health, et cetera) will be responsible for the actual performance of the state's work. The department's officials will decide what tasks are to be done, specify the qualifications which the employee must offer, determine whether the employee is earning his pay. There is still, however, important work to be done by a central personnel department. The task of recruiting employees has already been discussed; that of protecting employees from mistreatment will be discussed later.

One of the most important duties of the Department of Civil Service is the classification of positions and standardization of pay. After study of the work done in various departments, the Director of Personnel will work out descriptions of the different positions, perhaps inducing department officials to make some alterations in work assignments so as to make certain classes as inclusive as possible. After classes of positions have been estab-

47. Id. at §§ 24(a), 25.

lished, the Director of Personnel will fix a range of pay for each class.⁴⁸

The advantages of such a procedure will readily be seen. When jobs are grouped into fewer classes, entrance examinations can be given at less expense. Stronger candidates will be attracted to the examinations, since the chance that a job will be forthcoming as the result of a high mark increases in proportion to the number of jobs embraced by the examination. As jobs and pay are standardized, transfers are facilitated and comparative efficiency ratings become possible.

Standardization of jobs and pay scales, of course, throws an obstruction in the way of efforts to pad pay rolls and boost salaries out of proportion to the value of services. This salutary result is still further advanced by providing central control over pay rolls. No employee or person purporting to be an employee of the state may be issued any check or warrant for payment of compensation by the fiscal officers of the state unless the Director of Personnel certifies that he was appointed to the position alleged at the pay rate indicated. The law requires that a rating system which will measure the competence and efficiency of employees be put into effect. The Director of Personnel is authorized to investigate the accuracy of reports of ratings; in this way he can obtain first hand knowledge of padding of pay rolls with persons who render no service or inadequate service for their pay.⁴⁹

In order to encourage faithful and competent service on the part of employees, pay scales shall be so designed as to allow for salary increases in any job. Preference shall be given to duly qualified persons already in the service when any position of higher responsibility and pay is to be filled, and service ratings are to be maintained so that persons of greatest worth can be put highest on promotion lists. The Department of Civil Service shall furthermore be constantly on the watch for opportunities to

48. *Id.* at §§ 12-16.

49. *Id.* at §§ 29, 31. Apparently the Department of Civil Service is given no specific grant of power to investigate charges that persons are maintained on jobs for which they are not needed. Louisiana Acts 9 and 63 of 1940 are also designed to prevent the padding of pay rolls. The former makes it unlawful to increase the number of employees or the amount of a pay roll more than a certain amount during the six months immediately preceding an election; the latter fixes penalties, collectible against both employing officer and fictitious employee, for payment or receipt of money for services not actually rendered. See Bugea, Lazarus, and Pegues, Louisiana Legislation of 1940 (1940) 3 LOUISIANA LAW REVIEW 98, 152 et seq.

transfer employees from department to department, where greater usefulness to the state will result.⁵⁰

(d) *Keeping state employees out of politics.* The hope of getting a better job is an important incentive to faithful work among any group of employees, but it must be supplemented by the fear of being fired. The power to fire public employees, however, is one of the two primary tools of spoils politics. The limitation which the new Louisiana law puts on the power to hire has been discussed. The Civil Service Commission and the Director of Personnel are directed by forceful statutory language to put a firm curb on the power to fire.

No employee is given a lifetime guarantee of his job. If he is unable or unwilling to perform the duties of his position in a satisfactory manner or commits any act to the prejudice of the service, he loses his claim to his job and is subject to discipline which may include dismissal.⁵¹ If the employee charges that his offense was not adequate cause for the disciplinary action, the Director of Personnel will conduct an investigation and make such recommendations as he believes proper; if the circumstances justify and a place is available, he may transfer the employee to another division in the state service. Where the disciplinary action is severe, involving dismissal, demotion, reduction in pay, et cetera, the employee may carry his grievance to the Civil Service Commission. The Commission is required to hold a hearing on the matter and order such disposition of the case as it finds justified—even to reinstatement with restoration of lost pay. If, as noted earlier in this article, the Commission finds that the disciplinary action was for religious or political reasons, it must order the employee to be reinstated in his position and reimbursed for his loss of pay.⁵²

A strong hand in the enforcement of the foregoing remedies will effectively wreck the efforts of any group to sweep the State House clean and pack it with political henchmen. But the new Civil Service Law goes much further. It contains a series of provisions based directly on the federal Hatch Act. It is made unlawful to appoint, promote, demote, dismiss, or in any other way favor or discriminate against any employee in the classified ser-

50. La. Act 172 of 1940, §§ 16, 19, 24(a), 27, 29. The act assumes that employees seeking better positions will take competitive examinations, but that any employees who are found to be qualified will be given preference over the highest ranking candidate not already in the service. *Id.* at § 24(a).

51. *Id.* at § 33.

52. *Id.* at §§ 33, 34.

vice because of his political or religious opinions or affiliations. Persons seeking state employment may not offer any political endorsement as an inducement for appointment. No person seeking to influence votes (or any other political action) may promise state jobs, or promise better jobs or higher pay for those already employed, or promise to use political influence to such ends. Persons employed in the classified service are forbidden to make any contribution to political funds of any sort, either voluntarily or under assessment, nor may they solicit or collect contributions to political funds from other persons. No person in the classified service shall publicly identify himself with or take an active part in the work of any political organization or party. He may not be a candidate for nomination or election to any public office or participate in a political campaign in any fashion "except to exercise his right as a citizen privately to express his opinion and to cast his vote."⁵³ Finally, no person who holds an elective public office may, during the term for which he was elected, be appointed to the classified service.⁵⁴

Penalties for violation of the foregoing provisions are severe, permitting a maximum fine of ten thousand dollars and prison sentence of two years, or both. The Civil Service Commission is given power to investigate charges that the provisions related in the foregoing paragraph (Section 42 of the act) have been violated. If it finds that any person in the state service (defined by the act to include elected officials and employees not included in the classified service) has by engaging in politics violated any of these provisions it shall direct the offending person or persons to be dismissed from the state service and such person, in addition to liability to the penalties mentioned above, shall not for a period of two years be eligible for employment or public office in the state service.⁵⁵

The importance of honest and courageous men on the Civil Service Commission will readily be appreciated; the necessity of a vigorous and informed public opinion to support the Commission will be just as obvious.

The Problem of Responsibility

Under the provisions of law discussed in the foregoing pages the administrative branch of the Louisiana state government is

53. Id. at § 42(e).

54. Id. at § 42.

55. Id. at §§ 42, 45.

united under the leadership of the Governor. The Governor is made in fact, as well as in theory, the chief executive of the state. He will appoint the heads of fourteen great administrative departments; he may be permitted to fix their compensation;⁵⁶ he can remove them for cause. He will preside over cabinet meetings at which the heads of all departments will be present. He will direct the making of the biennial budget, and, no doubt, will control the flow of money from the treasury through the quarterly allotment system.

The Governor of the state is thus made, as of course he ought to be, a very powerful officer. If he controls the actions of the Director of Finance and his subordinates, and there is every reason to suppose that he will, he will be in a position to mould the policy of every department in the state government. But while the Governor of Louisiana is given a dominant position in state administration, he will not have the legal and political power that has been accorded the chief executive in a number of other states. He must show "cause" for the removal of department heads; under many recent state reorganizations the Governor may remove "at pleasure." And the patronage of public employment is stripped from him through the adoption of the Civil Service Law.⁵⁷

The department head, under most reorganizations of recent years, has been made responsible to the Governor alone. The provision in the Louisiana reorganization for boards with power to review and set aside acts of the department head is a definite innovation. France, perhaps more than any other of the western countries, has made widespread use of boards (in some cases assemblies of more than a hundred members) to advise with administrative officers and in certain circumstances veto their orders.⁵⁸ In America, both state and nation, it has been common to utilize boards and commissions for important administrative work. In many instances these boards meet from day to day to make the routine decisions and give the orders to subordinates which constitute actual administrative work; in other cases the board has been empowered to appoint a secretary or executive officer to do the actual administrative work, the board retaining

56. La. Act 47 of 1940, tit. III, § 2: "Except as hereafter otherwise expressly provided by law, the compensation of each such head shall be fixed by the Governor."

57. Lipson, *The American Governor From Figurehead to Leader* (1939) c. 7-8.

58. Dauphin, *L'administration consultative centrale* (Paris, 1932).

a veto over his actions. It is rare indeed, however, that we have declared the authority of a department to be vested in a single officer, and then established a board to review his acts.⁵⁹

The Louisiana reorganization provides both "general departmental boards" and advisory committees to check the work of the administrative departments. Advisory committees, representative of various sectors of the public and empowered to investigate and give advice, are on the whole infrequently used in American state and national government.⁶⁰ In providing for the Governor and department heads to appoint such advisory committees as they may find necessary, the Louisiana legislature undoubtedly took an important step toward responsible government. Even though created only at the will of the Governor or department head and authorized to do nothing more than "render advice," the advisory commission may prove an effective channel through which interested citizens can make known their wishes and at the same time learn exactly what administrative departments are doing.⁶¹

The role which the general departmental boards will play in administration of the state's affairs is impossible to foretell. As noted above, these boards are to represent the interests of the public in matters which come before them. They are authorized to make such investigations as they "deem necessary to the formulation of policies or to determining the wisdom and efficacy of the policies, plans, and procedures of the department."⁶² They may veto rules and regulations proposed by the head of the department. And they may "hear and determine appeals from any acts done or decisions made by the head of the department or under his authority."⁶³

Boards with such powers are established in at least twelve of the departments. It is clear that they are destined, if their powers are utilized, to exert most important limitations on the action of departmental officials. In the exercise of such powers of control, they can go far to establish administrative responsibility to the public. The statutory language seems broad enough, however, to permit them to go beyond the point of "check," to the point of complete determination of the entire departmental program—

59. Pfiffner, *Public Administration* (1935) c. 4.

60. *Id.* at 74-77.

61. La. Act 47 of 1940, tit. III, § 10(i).

62. *Id.* at tit. III, § 10(f).

63. *Id.* at tit. III, § 10(h), Cf. *supra*, pp. 5-8.

this in spite of a declaration that the board shall not have power to "prescribe or direct the conduct of any work of the department nor the action of the head of the department or any subordinate employee thereof in any matter or case."⁶⁴ If the powers of boards are carried beyond the point of "check," one of the fundamental purposes of the reorganization plan—unification of the service under the supervision of the Governor—may be defeated.

The time-honored device for enforcement of responsibility upon the chief executive and the bureaucracy is the representative assembly. The rise of parliaments is paralleled by the decline of monarchical power; the rise of dictatorship in contemporary times is accompanied by the atrophy of legislatures. Through its ability to withhold approval of policies, the British House of Commons forces the cabinet to modify its program or resign. By positive or negative action on legislative proposals, reluctance to provide appropriations, ability to command the support of bodies of public opinion, Congress has won many a battle with the President and forced many a department to alter its policies.

The American state legislature, part time body, made up ordinarily of individuals who serve at most two or three sessions, has never proved adequate for effective control over the administrative branch. This has been especially the case in Louisiana during recent years, rejection of the Governor's legislative proposals and criticism of administrative policies being virtually unknown. The 1940 legislature took two steps intended to increase the effectiveness of the legislative branch as an agency of control—the establishment of a standing Audit Committee, and the proposal of a constitutional amendment to increase the pay of legislators and free them from subservience to the chief executive and administrative officials.

The Audit Committee has been discussed already in these pages. Its charter of powers (investigation, study, recommendation) is broad; its access to information is easy and direct. If it fails to furnish the legislature with a basis for critical judgment concerning the performance of the chief executive and the administrative branch, it will be because the members of the Audit Committee do not rise to the potentialities of their position.⁶⁵

But an Audit Committee alone, even though farsighted, courageous, and independent, cannot do much to force responsibility

64. *Ibid.*

65. *Supra*, pp. 14-15.

upon the officials of the state. Its effectiveness depends on the response which its disclosures and recommendations meet in the two houses of the representative body. The purpose of one of the proposed constitutional amendments is to increase the likelihood that the legislature will meet its obligations with greater courage if not greater understanding.⁶⁶ It strikes at this objective, first by increasing the compensation of legislators, and second, by forbidding legislators or their relatives to be employed in administrative positions.

Heretofore members of the Louisiana legislature have received as compensation ten dollars for each day of legislative service. Under the proposed amendment they will receive an annual salary of twelve hundred dollars plus an additional ten dollars for each day of attendance on legislative sessions. Travel allowance will remain as previously, ten cents per mile for three round trips during any session.⁶⁷

The Louisiana legislature, like that in all but one or two of the other states, is a body of transients. On the average one-half of the members of the Louisiana Senate and sixty per cent of the members of the House are serving their first or second regular session of service.⁶⁸ The testimony of persons with experience in the legislative process, drawn from all parts of the United States, leaves no room to doubt that a legislature composed so largely of newcomers is wholly incapable of meeting its responsibilities with understanding. This testimony also makes it clear that the chief reason for quitting legislative service after only one or two terms is the inadequacy of compensation. A careful study of turnover in representative legislative assemblies verifies the latter observation. Transiency in service runs hand and hand with low pay. States like New York and Illinois, which pay reasonably well, maintain a substantial number of veterans in the two houses. States, like Arkansas, Indiana, and Louisiana, which offer low pay, have few experienced lawmakers. There is ground, therefore, for predicting that the proposed pay increase, if adopted at the polls, will result in a more stable membership and therefore a better informed legislature than Louisiana has previously known.⁶⁹

66. La. Act 379 of 1940.

67. La. Const. of 1921, Art. III, § 14.

68. From unpublished data compiled by the Bureau of Government Research, Louisiana State University.

69. Cf. Hyneman, *Legislative Experience of Illinois Lawmakers* (1935) 3 U. of Chi. L. Rev. 104; Hyneman, *Tenure and Turnover of Legislative Per-*

Several paragraphs of the proposed constitutional amendment (Act 379) are pointed directly toward freeing the legislature from subservience to the administrative branch. It is declared unlawful for any member of the legislature to hold any other office or position of profit in the state government. It is made unlawful for the spouse, child, or grandchild of a member of the legislature, to hold any office or place of profit in the state government unless he has been in such position for at least two years prior to the election of such member to the legislature. The prohibition against public service of relatives makes exception for those who hold elective offices, the office of justice of peace or notary public, office in the national guard, or teacher in a public school or state institution of learning.

Under a practice which came to its peak during the past few years, many members of the Louisiana legislature, and close relatives of members, were employed in one or another division of the state service. With family income dependent on the good will of the chief executive and his administrative subordinates, few legislators could be expected to offer resistance to the Governor's program or institute inquiry into administrative conduct. By severing the legislator and his relatives from departmental pay rolls, it is hoped that the occasion for legislative subservience will be terminated. The next few years, if the amendment is adopted, should provide a most interesting experiment in legislative behavior.

ELECTORAL REFORM

Legislation directed toward administrative reorganization and the redress or termination of venality in public affairs overshadowed other kinds of reform in the 1940 session. An examination of the statutory output of the session will reveal, however, that at least a dozen enactments and three proposed constitutional amendments make important alterations or additions to the law governing the right to vote, party organization, nomination procedures, and the conduct of elections. These acts will be treated under four heads: (1) registration of voters, (2) party organization and nominations, (3) conduct of elections, and (4) curbing the power of the machine.

sonnel (1938) 195 *Annals* 21; Hyneman, *Tenure and Turnover of the Indiana General Assembly* (1938) 32 *Am. Pol. Sci. Rev.* 51, 311; Hyneman and Ricketts, *Tenure and Turnover of the Iowa Legislature* (1939) 24 *Iowa L. Rev.* 673.

Registration of Voters

A bill to make important changes in the law governing registration of voters⁷⁰ was introduced early in the session and made an important item in the Governor's legislative program. Duly approved by legislature and Governor, it became Act 45. In addition to this statutory enactment the legislature proposed a constitutional amendment (Act 374) which, if adopted, will (a) remove from Article VIII, Section 2, the requirement that the voter must sign the poll book in the sheriff's office during each of the two years prior to election, and (b) remove from Article VIII, Section 3, the provision that the signing of the poll book shall be a prerequisite to voting in municipal elections.

Act 45 affects the organization and procedure of registration at three points: the office of registrar, registration records, and the purging of the rolls. All registrars in office at the time the law went into effect are forced to vacate their positions. The Governor and the police juries of the state are required to make new appointments not later than September 15, 1940. As soon as these appointees qualify, all incumbents shall cease to serve.⁷¹

Under the new law, as previously, police juries will appoint the registrar in country parishes and the Governor, with Senate consent, will appoint in New Orleans. Salaries of registrars are altered in some cases, but the changes are not of great importance. The provision of the former law whereby the Board of Registration may remove registrars from office is retained, and augmented by a provision for initiation of removal proceedings by petition. Upon the petition of fifty qualified voters citing proper cause for removal of a registrar, the Board of Registration shall conduct an investigation; if either the petitioners or the registrar demands it, the Board shall hold a public hearing. If the charges are found to be substantiated, the Board has no choice but to remove the registrar.⁷²

Substantial changes are made in that part of the law which governs the records that shall be kept in the office of the registrar, the use that may be made of them, and the right of the public to examine and copy them. The act goes into great detail as to what records shall be kept and declares all of them to be public

70. La. Act 122 of 1921 (E.S.), as last amended by La. Act 28 of 1938 [Dart's Stats. (1939) §§ 2615-2850.10].

71. La. Act 45 of 1940, Art. I, § 1.

72. Id. at Art. I, §§ 1-5.

records, open to inspection during office hours by any qualified voter, and available for copying or photographing.⁷³

Articles 5 and 6 of the new law provide for getting names off the registration rolls. It is made the duty of the clerks of court, the State Department of Health, the New Orleans Board of Health, the charitable institutions of the state, and hotel and boarding house owners to keep the registrars informed of deaths, convictions, admissions to institutions, removals from the community, et cetera. A basis for constant correction of the list of voters is thus provided. Furthermore, if an affidavit is filed by two registered voters of the parish, alleging that a name is improperly on the registration rolls, the registrar is required to notify the person in question to appear and justify his registration. Failure to appear will result in striking the name from the rolls. A procedure for restoring to the list names which have been improperly removed is provided in the act.⁷⁴

The revision of the registration law does not correct every shortcoming which has been pointed out by critics. It must be acknowledged, however, that many of the sources of recent complaint are now removed.⁷⁵

Party Organization and Nominations

In those states where Republican and Democratic leaders battle on fairly even terms for the voters' support, competition between the two party organizations provides a basis for regulation of both primary and general elections. Duly constituted officers of each party may be vested with legal powers which enable them to thwart the machinations of the opposing party. Knowledge that the success of the party in the general election may turn on blocs of voters who are easily won or alienated serves to restrain the activities of party leaders in primary campaign and pre-primary negotiation and maneuvering.⁷⁶ In the one-party state the rivalry of competing factions affords a very unsatisfactory base for the regulation of party affairs and election con-

73. Id. at Art. IV, §§ 1-4.

74. Id. at Arts. V and VI. La. Act 129 of 1940 declares it a misdemeanor for any person to vote or hold public office if he has been convicted of a crime punishable by imprisonment in the penitentiary, and has not since had his civil rights restored by a pardon in accordance with La. Const. of 1921, Art. VIII, § 6. Any qualified voter may institute proceedings to remove any such person from an office illegally occupied.

75. Cf. Powell, *Registration of Voters in Louisiana* (Louisiana State University Bureau of Govt. Research, 1940).

76. Bruce, *American Parties and Politics* (1927) 322-327.

duct; the alliances of politicians are too unstable to permit the erection of a system of control which supposes that party leader will check the activities of party leader. As a consequence, where one party has a monopoly on politics, it is exceedingly difficult to enforce rules of combat which are fair to all groups and factions, and to obtain a supervision of balloting which gives reasonable assurance that votes will be counted as marked.

In a careful study of party organization and conduct of primary elections,⁷⁷ issued shortly before the convention of the 1940 session of the legislature, Professor Alden L. Powell differentiated six major shortcomings of the Louisiana law. He found (1) that persons who hold public office in the state are permitted to hold positions of responsibility in the Democratic Party and thereby convert the prestige and power of public office to the virtually insurmountable disadvantage of groups within the party who are opposed to them; (2) that the legally constituted committees of the Democratic Party (state, district, parish and municipal) use the resources of the whole party for the advantage of the particular faction or factions with which the members of the committee are personally allied; (3) that membership in the state central committee is not apportioned among the parishes in close enough relation to population, and that this in connection with the provision for appointment of members of the several committees permits the dominant faction of the state to continue its supremacy; (4) that the requirement that persons seeking nomination for office must file their intention with a party committee is a source of inconvenience as now administered and discourages the filing of candidacies; (5) that the failure of the primary law to fix the tenure of party committeemen has been a source of embarrassment and misunderstanding; and (6) that the law fails to provide a method for the organization of factions within the Democratic Party which challenge the dominant group.

The 1940 session enacted legislation which at least partially corrected the third and the fifth of the shortcomings which Professor Powell pointed out. Act 46 provides that persons who are now members of party committees shall hold office until after the primary election in January, 1944, at which time members shall again be chosen. Members of the state central committee

77. Powell, *Party Organization and Nominations in Louisiana* (Louisiana State University Bureau of Govt. Research, 1940).

shall be elected for periods of four years, and the new committee shall take office at the date when the results of the election are promulgated. Members of parish committees shall be elected for four years, and shall convene not later than fifteen days after the election; there is no further indication as to when the newly elected members shall take office. Members of municipal committees shall be chosen at the primary election held for nomination for municipal offices, and they shall serve for the same term of office as the municipal officials. Members of municipal committees shall serve until their successors are elected; the newly elected members shall convene not later than fifteen days after their election. There appears to be no provision in the statute fixing the term of office for members of the various district committees. Presumably the state central committee can by rule fix the terms of office for these committees and fix more definitely the time when the members of other committees shall assume their offices.⁷⁸

The unsatisfactory apportionment of members of the state central committee and the provision for stacking the parish committees were also corrected by Act 46. Henceforth the members of the state central committee shall be elected from the districts which have been established for the election of members to the lower house of the state legislature, and shall be elected from those districts in the same numbers as members of the lower house.⁷⁹ Under the new act the composition and selection of parish, municipal and district committees is for the first time fixed by law. Parish and municipal committees will consist entirely of members chosen by plurality vote in the primary elections. Two committeemen will represent each ward in Orleans Parish; in the country parishes there will be "as many ward members as there are police jurors," plus five additional members to be elected from the parish at large.⁸⁰ Municipal committees will consist of one member from each ward; if there are less than three wards in the municipality, "there shall be elected three members."⁸¹

Supreme Court district committees, Court of Appeal district committees, and Public Service Commission district committees will each consist of those members of the state central committee

78. La. Act 46 of 1940, §§ 5, 10, 15, 16. Previous law: La. Act 97 of 1922, as last amended by La. Act 8 of 1938 [Dart's Stats. (1939) §§ 2651-2685].

79. La. Act 46 of 1940, § 5(a).

80. Id. at § 5(h).

81. Id. at § 5(i).

who were chosen from that area. If a senatorial district or a judicial district embraces more than two parishes or embraces two parishes which have three or more members on the state central committee, its committee will consist of the members of the state central committee who represent that area; if the district consists of two parishes which have less than three members on the state central committee, the district committee will consist of those members of the state central committee, plus an additional person appointed by the state central committee; if the district consists of only one parish, the parish committee will also be the district committee.⁸²

The principal function of a primary election is to identify those candidates for public office who will command the fullest support of party members in the approaching general election. In the two-party state or community, where the leading candidate for a particular office gets less than a majority vote, the disgruntled voters get a measure of satisfaction out of their ability to go into the general election and vote for the candidate of the opposing party. In the one-party state or community, nomination by mere plurality vote is a much more serious matter since it in effect gives the office to one who is first choice neither of those within the party nor of those who vote the opposition ticket. The second or run-off primary is a device to correct this shortcoming, its purpose being to determine the more popular of the party's two leading candidates for a given office.

Heretofore under Louisiana law, when none of the candidates for a particular state or local office received a majority of the votes, the second highest candidate could demand a run-off between himself and the leading contender.⁸³ The new act continues to give this privilege to candidates for the office of governor, to candidates for the United States Senate and House of Representatives, and to candidates for all local offices. The second highest candidate for any state office other than that of governor may demand a second primary also, if one is held for selection of a candidate for governor. If, however, a second primary is unnecessary to nominate a candidate for governor, those candidates for the other state offices who received pluralities in the first primary go into the general election as nominees of the party.⁸⁴

82. *Id.* at § 5(c)-(g), (k).

83. La. Act 97 of 1922, as amended by La. Act 28 of 1935 (E.S.), and as last amended by La. Act 8 of 1938, § 27 [Dart's Stats. (1939) § 2677].

84. La. Act 46 of 1940, §§ 77-80.

Act 46 also contains a number of provisions intended to assure a fairer conduct at polling places during primary elections. The respective powers of police jury and party committee over primary elections are clarified. The provisions in respect to location of polling places, secrecy of voting, and fairness in counting votes and making returns, are changed in many respects, and the provisions concerning contesting of returns are substantially altered and clarified.⁸⁵ The arbitration committee provided in the old law to hear charges of unfair or improper practices by police officers assigned to polling places in New Orleans is not continued under the new law. Instead, the new act specifically forbids police officers to be assigned to the polls.⁸⁶

Conduct of Elections

The 1940 legislature enacted three statutes and submitted two constitutional amendments dealing with the conduct of elections. Act 84 and the proposed amendments (Acts 372 and 375) introduce the voting machine to Louisiana. Act 224 makes important changes in the administration of the polls. And Act 277 gives local governing authorities control over special elections called to authorize taxes or bond issues.⁸⁷

The voting machine offers at least two indisputable advantages. Since a vote may be recorded in much less time than is required to mark a ballot, the number of precincts may be reduced and the expense of elections greatly diminished. Since the machine records the number of votes, and since the tally of votes recorded by the machine can be sealed against change for an indefinite period, the opportunities offered for crookedness in the counting of votes and preparation of returns can be enormously reduced. Tampering with the voting process, therefore, will be confined essentially to such practices as bribery of voters, allowing repeaters, dishonesty in helping incompetent persons register their votes, and entering the machine and voting unlawfully. Elections can be stolen by any of these practices. The voting machine can be no safeguard against padded registration rolls, or purchase of votes. If watchers desert their posts, a dishonest election official might well ring up votes until he has worn out both

85. *Id.* at §§ 47-57, 61-76, 86.

86. *Id.* at §§ 96-97.

87. La. Act 331 of 1940 provides that, effective after the regular legislative session of 1942, the state shall reimburse the parishes of the state for expenses incurred in the conduct of general elections for state and parish officers and for members of Congress.

himself and the machine. The most vigilant watchers are frequently unable to keep boxes from being stuffed or switched, to keep election officials from changing votes or defacing ballots, or to force officials to make a truthful return of the totals actually counted. Watchers who are reasonably vigilant should be able to keep election officials from entering the machine and recording votes at will.⁸⁸

The new voting machine law is incorporated in Act 84. One of the proposed constitutional amendments (Act 372), by enlarging Article VIII, Section 7 of the Constitution, declares the right of the legislature to require use of voting machines. The other proposed constitutional amendment (Act 375) merely rewords Article VIII, Section 15 so as to make it lawful to vote by use of a machine. Act 84 makes the use of voting machines mandatory in Orleans Parish and permits their adoption in any other parish if authorized by popular vote. The governing parish authorities may order an election on the question, and must do so on petition signed by twenty per cent of the registered voters, but the question cannot be submitted twice within a period of two years. The police jury or the governing body of a municipality may try out voting machines in one election without submitting the question to a vote, and the election carried out on such occasion shall be valid.⁸⁹

When and where voting machines are used, they shall be used in "all elections, general or special of every kind or character, including municipal, parochial, state and national primaries."⁹⁰ The state and parish are to divide equally the cost of the voting machines, and the machines are to be in the custody of the Secretary of State when not in use.⁹¹ The act includes provisions regulating the conduct of voting and the recording of returns where voting machines are used.⁹²

It appears that the question of adopting voting machines for use only within a municipality cannot be submitted to the people of the municipality; adoptions must be parishwide. But the authorities of a city may borrow or lease machines for experimental purposes.⁹³

88. Harris, *Election Administration in the United States* (1934) 259-279.

89. La. Act 84 of 1940, § 3.

90. *Id.* at § 1.

91. *Id.* at §§ 5, 19.

92. *Id.* at §§ 6-17.

93. *Id.* at § 3.

Act 277 excludes special elections on local taxes and bond issues from the machinery set up for the control of general elections. Police juries, school boards, and governing bodies of municipal corporations and other local government subdivisions are empowered to call, conduct, and supervise such elections. The powers of the local authority calling the election include the power "to appoint, select and commission, for each polling precinct in the political subdivision in which any such election is to be held, all commissioners, clerks and deputy sheriffs as provided for under the General Election Laws of the State of Louisiana."⁹⁴

Act 224 rewrites the general election laws,⁹⁵ making a number of changes. No doubt the most important change is in the composition of the boards of election supervisors in New Orleans. Under the previous law, such boards consisted of the registrar of voters and two persons appointed by the Governor.⁹⁶ Hereafter the board will consist of the registrar of voters, the civil sheriff, and one person appointed by the Governor.⁹⁷ Commissioners and clerks shall be chosen from lists of names submitted by the parish committee of each of the several political parties, and the commissioners shall be "so apportioned as to equally represent all the political parties authorized by law to make nominations."⁹⁸

Boards of election supervisors are stripped of power to establish election precincts, and the power is given to the police juries (commission council in New Orleans).⁹⁹ Apparently each polling place is to be policed by the commissioners at that place, and the board of supervisors of elections is no longer to have power to appoint deputies to police the polls.¹⁰⁰ The sheriff, instead of the board of election supervisors, shall appoint a deputy to assist the polling officials in transmitting ballot boxes and returns.¹⁰¹ Precautions against the stuffing of ballot boxes are increased.¹⁰²

94. La. Act 277 of 1940, § 1.

95. La. Act 130 of 1916, as last amended by La. Act 125 of 1936 [Dart's Stats. (1939) §§ 2708-2788].

96. La. Act 130 of 1916, § 11, as last amended by La. Act 5 of 1935 (2 E.S.) § 1 [Dart's Stats. (1939) § 2718].

97. La. Act 224 of 1940, § 11.

98. Id. at § 12.

99. Id. at §§ 38-40.

100. Id. at § 10.

101. Id. at § 22: ". . . and it shall be the duty of the Sheriff, whose duty it shall be to obey orders of the said officers of election [i.e., undoubtedly, the commissioners in charge of the polls] and transmit the ballot boxes and returns to the Board of Supervisors and clerk of court."

102. Id. at §§ 18-21. In an opinion dated October 29, 1940, the Attorney General of Louisiana ruled that under La. Act 24 of 1940, election commis-

The act applies to all state and local elections except (a) municipal elections in towns of less than 2,500 population, (b) elections upon constitutional amendments, and (c) elections to determine questions at which no officials are chosen.

Curbing the Power of the Machine

One of our countrymen blessed, no doubt, with more optimism than poetic ability, described the ballot as

A weapon that comes down as still
As snowflakes fall upon the sod
And executes the freeman's will
As lightning does the will of God.¹⁰³

One may charge the poet with excess of enthusiasm but still recognize the ballot to be the most potent device for peaceful change of government that the citizen has ever been given. It is a task of first importance, therefore, to safeguard its exercise so that it may express as nearly as possible the reasoned will of the majority. And this means that men shall not be permitted to use money or their power over the livelihood of others to control action at the polls and thereby determine the outcome of elections.

The various primary and general election laws discussed in the preceding section contain regulations designed to insure the secrecy of the ballot, free the voter from pressures, curtail the power of money in elections, and give assurance of an honest count. One enactment of the 1940 legislature was addressed directly to the practice of bribery. It increased the penalties for receiving or offering to receive, or giving or promising to give any money, office or position or other valuable consideration as a reward for (a) voting or not voting in any way in any general, special, or primary election, or (b) promising to influence the giving or withholding of a vote. Penalties under the new act run as high as one thousand dollars fine and one year imprisonment, or both.¹⁰⁴

Political activities are financed primarily out of the public treasury by awarding jobs, purchasing materials, giving contracts, and making other outlays of public money. The 1940 legis-

sioners may assist illiterate voters to write in names of persons as candidates for offices, but that they may not mark a ballot for a voter unless he is physically unable to make the mark himself.

103. John Pierpont, *The Ballot*.

104. La. Act 76 of 1940. See Bugea, Lazarus, and Pegues, *Louisiana Legislation of 1940* (1940) 3 LOUISIANA LAW REVIEW 98, 156-157.

lature struck hard at these practices. Act 76, noted in the previous paragraph, makes it unlawful to hand out jobs or any other favors in exchange for votes. Acts 9 and 63 are directed toward the same objective. The former makes it unlawful for the state or any of its departments, or for any parish, municipal corporation, or other political subdivision of the state, at any time during the six months immediately preceding an election for Governor, to increase its public employees more than five per cent or increase its pay roll expense or other operating expense more than fifteen per cent. The base for measuring increase shall be the average number of employees or average expenses of the first six months of the twelve months immediately preceding such election. The provisions of the act shall be suspended in time of flood, invasion, or other public emergency.¹⁰⁵ Act 63 also forbids the padding of pay rolls. It fixes heavy penalties for paying out money under guise of salary or compensation to any person who did not actually render services, or for carrying such persons fictitiously on a pay roll. Both the person receiving or intending to receive the money and the officer or other persons responsible for making the payment or carrying the name on the pay roll shall be punishable by fines running as high as five thousand dollars and imprisonment running as high as five years. In addition, the person convicted shall forfeit his office or employment, and the state may recover the amount wrongfully paid out plus fifty per cent from both the pretended employee and the pretended employer, in solido.¹⁰⁶

The new civil service legislation effectively supports the foregoing enactments, of course, in requiring that public employment be given on a basis of merit instead of as a reward for political activities.¹⁰⁷ But the civil service acts are even more far reaching in their effects. They recognize that, no matter what the method of their recruitment, public employees are a powerful vote getting force if thrown into a campaign. If city firemen, state and city policemen, school bus drivers, highway employees and other persons on one pay roll or another are sent about to canvass voters, hand out literature, decorate lamp posts and telephone poles, drum up attendance for meetings—if public employees do these things at no cost to the candidates for whom they work, the opposing candidates are either whipped at the

105. For further comment on the act see *id.* at 152 et seq.

106. See *id.* at 152 et seq.

107. See *supra*, pp. 19-20.

start or forced to mortgage future income and sacrifice freedom of action in order to command a similar army of workers. The State Civil Service Law is expected to terminate this sort of thing, so far as state employees are concerned. It contains a number of provisions which forbid state employees to take an active part in politics and make it unlawful for any persons, including superior state officials, to entice or coerce them to do so.¹⁰⁸ Similar language is included in the civil service law for New Orleans and the civil service law for firemen and policemen, each of which is discussed below.¹⁰⁹

Forced contributions from public officials and job holders, usually assessed according to the salary received, is an important source of revenue for political machines in many parts of the country and were carried to an extreme in Louisiana during recent years. The 1940 Louisiana legislature directed at least five statutes against this practice. The three civil service laws referred to in the preceding paragraph declare that no employees covered by those acts may directly or indirectly pay or promise to pay any assessment, subscription or contribution for any political organization or purpose, or solicit or take part in soliciting any such assessment, subscription, or contribution. Furthermore, no person, whether holding public office or not, may solicit such assessments, subscriptions, or contributions from employees covered by the three acts.¹¹⁰

The civil service laws apply only to persons in the classified service of the State of Louisiana and the City of New Orleans, and to policemen and firemen in cities of more than sixteen thousand population. Furthermore, the acts relating to the state and to New Orleans do not go into effect until July 1, 1942. Two additional acts, however, went into effect directly after passage and extended the above prohibitions to a great number of public employees not covered by the three civil service laws. One of these acts applies to forced contributions only; the other extends only to the political subdivisions of the state, other than New Orleans. This latter statute will be discussed first.

Act 298 forbids any person holding office or employment under any parish, municipal corporation, or other political subdivision of the state, whose remuneration is two hundred dollars

108. La. Act 172 of 1940, § 42.

109. *Infra*, pp. 41-45.

110. La. Act 171 of 1940, § 41(d); La. Act 172 of 1940, § 42(d); La. Act 253 of 1940, § 13(d).

per month or less, to make any monetary contribution to any primary or general election or for any political purpose. Persons holding elective office, persons whose appointments are required by law to be confirmed by the Senate, and persons whose employment is secured by an irrevocable contract are excepted from the application of the law. The act does not forbid service at the polls as a watcher or in any other capacity, if such job at the polls does not carry compensation. Persons who make contributions contrary to this act, and persons who solicit or receive such contributions are subject to penalties running as high as a fine of one thousand dollars and six months imprisonment. Officers and employees of the state and of the City of New Orleans are not covered by this act since they are covered by the civil service laws.

Act 176 is intended to put an end to "deducts." It makes it a crime to obtain money from public officeholders or employees by threatening to take away their jobs, or by making such payments a price for obtaining a job. It is unlawful for any person, corporation or association of persons, directly or indirectly, to receive or solicit such payments or cause them to be made to any other person. It is unlawful to make such solicitation or receive money from any person holding office or employed by the state, any parish, any municipality, or any other subdivision of the state. Solicitation and receipt of money is unlawful only when such payment shall not be made freely and voluntarily. The solicitation or receipt of money under the above circumstances is unlawful where it is connected with a threat or suggestion that the payment will get the man a job, or keep him in his job, or get him a better salary or keep his salary from being reduced. But the act does not apply to solicitation or the receipt of money for such considerations when the person who is solicited or makes the payment is not already an officeholder or public employee. In other words, the act forbids assessments on officeholders and employees; it does not make it illegal to shake down people who are trying to get public jobs but are not yet in public office or in public employment.

IMPROVEMENT OF LOCAL GOVERNMENT

The new legislation which undertakes important changes in local government falls into three categories: (1) civil service legislation, (2) pension and disability benefit systems, and (3) housing acts. The laws which fall under the first two classes con-

cern municipalities only; the housing acts affect both municipal and parish authorities. These three heads do not embrace the whole output of the 1940 session which affects local subdivisions of the state. The statutes examined already in this article under the head of "Electoral Reform" have as direct a bearing on local as on state government. The acts relating to local finance and many which touch on other phases of local governmental powers and procedures are treated in other articles in this volume.¹¹¹ In addition to these, the 1940 legislature effected a great many other changes in the law governing municipal corporations, parishes, school boards, and special districts; while not unimportant, those acts do not command wide enough interest to justify treatment here.¹¹²

Civil Service Legislation

Reference has been made already to the trio of civil service laws which attempt to introduce merit into public employment in Louisiana. Two of the three new statutes relate to city government; Act 171 establishes a merit system in New Orleans; and Act 253 attempts to do the same for firemen and policemen in cities (other than New Orleans) having a population of more than sixteen thousand people.

The new act for New Orleans, called the City Civil Service Law, requires no lengthy discussion; its objectives are identical with those of the State Civil Service Law, and insofar as possible, the organization and procedures established by the two laws are identical. Indeed, the drafting of the New Orleans civil service law consisted only of making necessary adaptations in the state

111. Bugea, Lazarus, and Pegues, *Louisiana Legislation of 1940* (1940) 3 *LOUISIANA LAW REVIEW* 98; Dakin, *Tax Legislation of 1940* (1940) 3 *LOUISIANA LAW REVIEW* 55, 91-94.

112. Most important of these acts seem to be La. Act 228 of 1940 (authorizes police jury, in appointing commissioners of drainage districts, to select either persons recommended by a majority of the landowners of the district, or persons recommended by the owners of a majority of the acreage in the district. Formerly police jury had to appoint those recommended by persons owning a majority of the acreage. Previous law, La. Act 85 of 1921 (E.S.), as amended by La. Act 200 of 1928 [Dart's Stats. (1939) § 70391]; La. Act 230 of 1940 (requires supervisor of public funds or successor to duties of that office to publish semi-annually in the official journal of each parish except Orleans, his audit report on the financial transactions of the parish); La. Act 286 of 1940 (requires various parish officers, clerks of court, commissioners of special districts, et cetera, to file a report monthly with the police jury showing in detail their actual expenditures); La. Act 307 of 1940 (removes the statutory limit on expense fund of sheriffs and regulates in greater detail the objects for which sheriff's expense money may be paid; supersedes La. Act 156 of 1920, as last amended by La. Act 17 of 1938, § 2 [Dart's Stats. (1939) § 7506]).

law. The New Orleans law can be sufficiently explained here by pointing out its variations from the state law.

The State Civil Service Commission will consist of five persons chosen by the Governor from five panels prepared by five college and university presidents; the New Orleans commission will consist of three persons, two to be named by the State Civil Service Commission and one to be named by the Commission Council. The state Commission may be removed by the Governor on recommendation of a committee consisting of the Governor, the Chief Justice of the Supreme Court, and the President pro tem of the Senate; members of the New Orleans Commission may be removed by the Mayor on recommendation of a committee consisting of the Chairman of the State Civil Service Commission, the City Attorney of New Orleans, and the senior District Judge. State and city commissioners serve for the same term (six years) and receive the same compensation (twenty-five dollars per day with a limit of two thousand dollars during any year).¹¹³ The New Orleans Commission, like the state Commission, will appoint an examining committee to determine the three persons best fitted to be Director of Personnel, the Commission giving the appointment to one of the three.¹¹⁴

The state law excepts from its provisions a number of officials and employees who are enumerated in fourteen paragraphs. Excepted positions in the New Orleans service are listed in nine paragraphs. Those positions are; reclassified, (1) all elective offices; (2) heads of "principal executive departments"; (3) members of boards, authorities and commissions appointed by the Commission Council, and members of advisory boards and committees appointed by the mayor and serving without pay; (4) members and employees of the Board of the New Orleans City Park Improvement Association; (5) one principal assistant, and one private secretary for the mayor, each member of the Commission Council, and each board or head of a department; (6) officers and employees of the offices of the mayor, city attorney, and Board of Liquidation of the City Debt; (7) one attorney serving as legal counsel to any appointing authority; (8) employees of parochial offices excepted from application of the State Civil Service Law; and (9) persons employed by the Department of City Civil Service to assist in giving examinations.¹¹⁵

113. La. Act 171 of 1940, § 5.

114. *Id.* at § 7.

115. *Id.* at § 10.

Only one other significant difference between the state and city law remains to be pointed out. State employees who are in the service on July 1, 1942, when the state law goes into full effect, are required to pass a noncompetitive qualifying examination to establish their fitness to stay in their jobs. The city act provides that persons in the service July 1, 1942, shall be entitled to continue in their positions "without further tests of fitness for such employment."¹¹⁶

In other respects than those covered in the preceding paragraphs, the purposes and methods of the two laws are the same. Entrance to the service shall be by competitive examinations, three names being certified to the appointing authority. Promotions shall be on a basis of merit, determined by efficiency ratings and examinations. Jobs shall be classified and standard pay scales established. Persons dismissed or otherwise discriminated against for political reasons shall be reinstated with restoration of lost pay. And participation by employees in political activity is forbidden under heavy penalties.

The merit system for policemen and firemen in cities having populations of between 16,000 and 100,000 people (Act 253) differs in a number of important respects from the programs instituted for the state and for the City of New Orleans. The most striking difference, no doubt, is the reliance on qualifying, as distinguished from competitive, examinations both for recruitment and for promotion of firemen and policemen. There are, on the other hand, a number of close similarities between the three laws. Act 253, for instance, virtually copies the language which forbids employees of the state and the City of New Orleans to take an active part in political affairs.

Act 253 creates a Fire and Police Department Civil Service Commission in each city within the specified population group, each such Commission to consist of five members selected as follows: (a) one person of its own choice selected by the Council or governing body of the city, (b) two persons to be chosen by the Council or governing body from a list of six persons who shall be nominated by the head or heads of the state institution or institutions of higher learning which may be closest to the city involved, (c) one person elected by members of the fire department, and (d) one person elected by members of the police

116. *Id.* at § 11.

department. Members shall serve for six years, two retiring each two years.¹¹⁷

The work of the various civil service commissions, like that of the state and New Orleans commissions, will be supervisory in character. Actual administration of the examinations will be in the hands of a State Civil Service Examiner, a person who will be designated by the Governor, and who presumably will be recommended to the Governor by the State Director of Personnel.¹¹⁸

Original appointments to the city fire and police service shall be made after qualifying examinations. Apparently all persons who earn passing grades in the qualifying examination are treated alike, and those who pass with a high grade enjoy no advantage over those who barely passed, insofar as original entrance to the service is concerned. As to promotions, persons in the service who want better positions must also pass a qualifying examination. The promotion shall go to the one, or ones, of highest seniority who passed the qualifying examination; evidence of superior fitness for the higher position apparently is to be disregarded.¹¹⁹

"Any aggrieved employee" shall have a right to a public hearing before the local Civil Service Commission, and the Commission shall make investigations and report on all matters touching on the enforcement and effect of the statute; but the act neither indicates what kinds of grievances may be brought before the Commission, nor states to whom the Commission shall make its report, nor indicates that the Commission shall have any power to make any orders to redress a grievance, except where there is a charge of discrimination for political reasons or improper ground for dismissal.¹²⁰

All reductions of staff, where economy compels reductions, shall be governed by seniority.¹²¹ All original appointments and promotions shall be made for a probationary period of six months; if the person is kept beyond six months in that job, his appointment becomes permanent.¹²² All persons who have been in the service for six months immediately prior to the enactment of the law are blanketed into the service with all the privileges

117. La. Act 253 of 1940, § 2.

118. *Id.* at § 6.

119. *Id.* at § 5.

120. *Id.* at § 7.

121. *Id.* at § 8.

122. *Id.* at § 5.

of persons who may be appointed through the method of qualifying examinations.¹²³ Grounds for discharge or demotion are listed in the act: they include incompetence, inefficiency, dereliction of duty, dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public, use of narcotics, conviction of a felony or of a misdemeanor involving moral turpitude, or other act that would, in the opinion of the Civil Service Commission, indicate unfitness for service in the department.¹²⁴ The Commission *may* reinstate a person who is discharged or demoted for a reason not embraced in this list, and *shall* reinstate if it finds the person was discharged or demoted for political or religious reasons.¹²⁵ Leaves of absence may be provided by the city.¹²⁶

Persons in the service of city fire and police departments are forbidden to take part in politics, and it is made unlawful for city officials or other persons to attempt to draw such employees into politics or use them in political campaigns.¹²⁷ These provisions, as noted above, are modelled on those included in the acts for the state and the City of New Orleans.

The act is not applicable to the chiefs of the fire and police departments of Baton Rouge, nor does it apply to privately owned fire and police services.¹²⁸ The law goes into effect twenty days after promulgation in cities having a population of 25,000 or more and goes into effect one year after promulgation in those cities having less than 25,000 inhabitants which fall within the act.¹²⁹

Pension and Disability Benefit Systems

Employees of municipal corporations and other governmental units are not covered by the old age pension legislation of the United States social security program. If public employees are to enjoy the advantages of retirement benefits, they must do so under the terms of legislation enacted by the several states for that purpose. In Louisiana such legislation dates back at least to 1888, in which year there was set up a retirement fund for the policemen of New Orleans.¹³⁰

123. *Id.* at § 10.

124. *Id.* at § 12.

125. *Id.* at §§ 7, 14.

126. *Id.* at § 16.

127. *Id.* at § 13.

128. *Id.* at §§ 1, 10.

129. *Id.* at § 19.

130. La. Act 63 of 1888, § 24.

Compensation for disability incurred in the course of public employment may, of course, be provided by workmen's compensation legislation or through the medium of casualty insurance policies. Since 1914 Louisiana legislation has required the state and its political subdivisions to provide protection for their employees disabled in the course of duty.¹³¹

The 1940 session of the legislature extended the protection accorded to two classes of municipal employees (policemen and firemen) by the enactment of three special acts and two laws of general application. Act 303 sets up a retirement and disability benefit system for firemen, which may be adopted by any city of less than 25,000 population, and having fire equipment valued at one thousand dollars or more. Act 343 is mandatory for all cities having a population exceeding 10,000 but less than 250,000 (Baton Rouge excepted). It requires each of them to establish a retirement and disability system for policemen which is outlined in the act; Act 12 creates a system for firemen in Alexandria; Act 180 confirms the system now in force for firemen in Monroe; and Act 167 does the same for the system covering policemen in New Orleans.¹³²

Each of the acts provides for an independent benefit program. Each city will create its own fund and bear its own liabilities; there is no provision for a common pool covering two or more cities. All the acts call for what are known as cash disbursement or quasi cash disbursement systems. Instead of figuring income and outgo on an actuarial basis and setting up reserves to offset future liabilities, these acts provide for a hand-to-mouth method of financing. The general act for policemen and the special act for firemen in Alexandria are quasi cash in character, providing for the accumulation of a small cash reserve before any pensions or benefits may be paid out. Under the other three acts, outgo will be matched by the amounts currently paid into the fund.

Each of the retirement systems will be administered by a board chosen from the local community; in each case the board has general rule making powers and a limited amount of discretion in determining the benefits which may be paid in certain

131. La. Act 20 of 1914, § 1 [Dart's Stats. (1939) § 4391].

132. See Zingler, Pensions, Disability and Relief Benefits for Louisiana Policemen and Firemen (1940) 3 La. Municipal Rev., No. 5, p. 13. Previous legislation repealed or revised is: La. Act 176 of 1932 (firemen in Alexandria) and La. Act 159 of 1912, as last amended by La. Act 30 of 1934 (3 E.S.) [Dart's Stats. (1939) § 6190].

cases. Each of the acts limits the investment of the fund to bonds of the United States, the State of Louisiana, and the political subdivisions of the state; the special act for firemen in Monroe is strictest in this respect, permitting investment in United States bonds only.

The systems set up by the five acts differ in a number of respects. The more significant differences may be treated under five heads: (a) agency created to administer the fund, (b) payments into the fund, (c) retirement pensions, (d) disability benefits, and (e) death benefits.

(a) *Administrative agency.* As noted above, each city which provides a retirement and benefit program will administer the system through the agency of a board chosen from the community. Under the act for firemen in Monroe, all members of the board shall be elected by the members of the fire department. At least five of the seven members must be members of the fire force; the Mayor "may" be elected president of the board, and one other person, who no doubt may be a city official, "may" be elected treasurer of the board.¹³³ The fund for New Orleans policemen will be administered by a board consisting of (a) the superintendent of police, (b) the secretary to the superintendent of police, (c) the secretary to the board of police, and (d) six active or retired members of the police department elected by members of the department.¹³⁴ Under each of the other acts two or more of the regular city officials serve ex officio, the remaining members being chosen by the policemen or firemen from their own number.¹³⁵

(b) *Payments into the fund.* In all cases the employees covered by the system pay into the fund out of which pensions and benefits are later to be paid; in all cases the city makes a contribution from the treasury; and in all cases certain incidental revenues go to the fund. This latter item consists notably of condemned property of the department not exchanged for new property, and donations and rewards given to the department or to individual members for extraordinary service.

Under the general act for firemen members of fire departments shall contribute one per cent of their salaries, and the municipality shall appropriate annually a sum not greater than

133. La. Act 180 of 1940, §§ 2-5.

134. La. Act 167 of 1940, §§ 1, 2.

135. La. Act 12 of 1940, §§ 4-6; La. Act 303 of 1940, §§ 8-10; La. Act 343 of 1940, §§ 3, 4.

one mill per dollar of its assessed valuation, the contribution by the city ceasing during such time as the fund earns interest sufficient to pay all claims.¹³⁶ The general act for policemen provides one method for building up the fund in cities having a population of 10,000 to 50,000, and a different method for cities whose population ranges from 50,000 to 250,000. In the case of cities in the smaller group, policemen shall contribute an amount not greater than three per cent of their salary, and the municipality shall appropriate (a) twenty-five per cent of the fines collected in municipal court for infraction of city ordinances and (b) twenty per cent of all license fees, privilege taxes, and permits for the sale of alcoholic beverages. A permanent fund of \$15,000 (plus an additional \$1,500) is to be maintained. In the case of cities above 50,000 population, policemen shall contribute not more than one per cent of their salaries and the city shall contribute twenty per cent of municipal court fines and ten per cent of liquor revenues as described above. The fund for cities of this population group shall be built up to \$50,000 (plus an additional \$15,000) before benefits and pensions may be paid.¹³⁷

The special act for Monroe requires firemen to contribute two dollars per month to the fund and stipulates that the city shall appropriate an amount equal to two per cent of the monthly pay roll of the fire department.¹³⁸ The Alexandria law calls for two per cent of all salaries to be paid in by firemen and requires the city to pay in \$5,000 yearly.¹³⁹ The fund for policemen in New Orleans will be built up from a number of sources: (a) the members of the police department contribute from three to five per cent of their salaries and (b) the city pays in from three to five per cent of the annual police appropriation. In addition there goes into the fund (c) all disciplinary fines imposed on policemen; (d) twenty per cent of all rewards, fees, proceeds, gifts, emoluments (individuals may be allowed to retain rewards specifically given to them); (e) various unclaimed monies and sums derived from the sale of unclaimed property; (f) unexpended balance of the department at the end of the year; (g) fifty per cent of the revenue derived from fees for drivers' licenses in New Orleans; and (h) fines imposed by the state or recorder's court for violation of the gambling, lottery, and hand book laws. When the fund

136. La. Act 303 of 1940, §§ 3, 6, 7.

137. La. Act 343 of 1940, §§ 1, 2, 5-9.

138. La. Act 180 of 1940, § 9.

139. La. Act 12 of 1940, § 9.

rises above \$250,000, contributions from salaries and appropriations by the city shall not exceed the minimum of three per cent; as the fund falls below \$250,000 contributions shall rise to the five per cent maximum.¹⁴⁰

(c) *Retirement pensions.* The persons who drafted the various retirement and disability acts had different ideas as to the conditions under which firemen and policemen should be permitted to retire with pay. The general law for firemen permits retirement at the end of twenty-five years of consecutive service, regardless of the age of the employee, and allows a pension equal to half of the average pay received during the six years immediately preceding retirement.¹⁴¹ The general law for policemen is even more generous. It specifies no minimum age, permits retirement at the end of twenty years of consecutive service, and fixes the retirement pay at two-thirds of the regular salary received at the time of retirement. The language of the act suggests, however, that the board has discretion to grant retirement pay or not; in case of such a concession, clearly, the pay shall be as stated, two-thirds of the regular salary.¹⁴² Under the system established for firemen in Alexandria, firemen have a right to retire after twenty-five years of service (the act does not state that service shall be continuous) regardless of age, and shall receive two-thirds of the regular salary, but not less than seventy-five dollars per month.¹⁴³ Policemen in New Orleans receive retirement pay under a sliding scale. After sixteen years of service, members of the department may retire with forty per cent of the regular salary; after twenty years, with fifty per cent; and after thirty years, with sixty per cent of the latest regular salary.¹⁴⁴ The special act for firemen in Monroe is the only one which makes any mention of a minimum age. To retire with pay, firemen of Monroe must either be seventy years of age, or have served for thirty consecutive years. Retirement with pay is optional. If he retires, the superannuated fireman will receive forty-five dollars per month for the remainder of his life; he may, if he chooses, refuse to retire and continue in the employment of the department regardless of age or infirmity.¹⁴⁵

(d) *Disability benefits.* In providing for the payment of bene-

140. La. Act 167 of 1940, §§ 4-11.

141. La. Act 303 of 1940, § 15(g).

142. La. Act 343 of 1940, § 15.

143. La. Act 12 of 1940, § 13(3).

144. La. Act 167 of 1940, §§ 15-17.

145. La. Act 180 of 1940, § 12(a).

fits to firemen and policemen who have become disabled, the five statutes vary widely. To detail the differences in these provisions would require several pages; since that task has been done elsewhere,¹⁴⁶ the present treatment will be summary. The special acts for Alexandria and Monroe provide only for paid fire departments; the general law (Act 303) makes different provision for paid and for volunteer departments. The general law carries separate provisions for total disability as distinguished from partial disability, and treats differently permanent as distinguished from temporary disability. Neither of the two special acts attempts to distinguish between total and partial disability, and they make separate provision for permanent and temporary disability only in the provision that payments shall not continue longer than the period of disability. The special act for Alexandria distinguishes between disability arising in the course of employment and disability arising outside the course of employment; neither the general law nor the special law for Monroe makes such a distinction.

The benefits to be paid disabled firemen differ in line with the several considerations pointed out in the preceding paragraph. It is perhaps sufficient to say that payments range from twenty-five dollars per month (volunteer firemen under the general law) to half of the regular salary (total disability under the general law and either total or partial disability under the special law for Alexandria).¹⁴⁷

The two acts relating to policemen simplify the matter of disability. The general law gives two-thirds of the regular salary to any policeman disabled in the course of duty, benefits continuing for the period of disability.¹⁴⁸ The New Orleans law provides benefits only if the policeman is permanently disabled in the course of duty, and the payment shall be a sum not greater than half of the regular salary.¹⁴⁹

(e) *Death benefits.* Provisions for payment of benefits to the survivors of deceased firemen and policemen vary even more widely than the provisions for disability payments. The differences involve (a) the circumstances of death which are deemed to justify payment of benefits, (b) the survivors who are deemed entitled to relief, and (c) the amount of benefits which are to

146. Zingler, *op. cit.* supra note 132, at 14-16.

147. La. Act 12 of 1940, § 13; La. Act 180 of 1940, §§ 12-14; La. Act 303 of 1940, §§ 15-18.

148. La. Act 343 of 1940, §§ 14, 15.

149. La. Act 167 of 1940, § 14.

be paid. The general act for firemen provides no death payments unless death is incurred in the course of duty.¹⁵⁰ Under the special act for policemen of New Orleans, benefits will be paid regardless of the cause of death if the deceased person has been in the service for sixteen continuous years; if death occurs before the completion of sixteen years of continuous service, benefits will be paid only if death arises in the course of duty.¹⁵¹ The other two acts make no distinction as to whether death is incurred in the course of duty or is due to other causes.¹⁵²

All of the acts provide for benefits to be paid to the surviving widow and dependent children. Four of the acts specify that payments to the widow shall cease upon her remarriage; the general law for policemen (Act 343) contains no expression on that point. Payments to orphan children shall terminate when the children arrive at a specified age—either fifteen, sixteen, or eighteen years. Three of the acts provide for one or both parents of the deceased to receive benefits under certain circumstances, the acts specifying widowed mother, surviving father and/or mother, and dependent father and/or mother. Two or three of the acts would have been greatly improved by a clear statement of how death benefits are to be divided between widow, orphan children, and surviving parents.¹⁵³

The amounts payable as death benefits are variously described. The system for New Orleans policemen provides only for a flat annual payment of \$150.¹⁵⁴ The general law for policemen pays to the widow (children under the age of fifteen, if no widow) the same amount as would have been payable to the policeman if totally disabled.¹⁵⁵ The act for Alexandria firemen allows one-half the amount which is awarded for total disability.¹⁵⁶ The general act for firemen allows twenty-five dollars per month to the surviving widow (to be divided between the orphan children, if no widow);¹⁵⁷ and the act relating to firemen in Monroe allows thirty-five dollars per month to the widow with five or ten dollars additional if there are one or more children.¹⁵⁸

150. La. Act 303 of 1940, § 15(h).

151. La. Act 167 of 1940, § 18.

152. La. Act 12 of 1940, § 13(5); La. Act 180 of 1940, § 12(c).

153. La. Act 12 of 1940, § 13(5), (7); La. Act 167 of 1940, § 18; La. Act 180 of 1940, § 12(c)-(f); La. Act 303 of 1940, § 15(h)-(k); La. Act 343 of 1940, §§ 14, 16.

154. La. Act 167 of 1940, § 18.

155. La. Act 343 of 1940, § 16.

156. La. Act 12 of 1940, § 13(5).

157. La. Act 303 of 1940, § 15(h), (i), (k).

158. La. Act 180 of 1940, § 12(c)-(f).

Housing Legislation

Housing legislation is a contribution of the New Deal to American public policy. The first Louisiana legislation authorizing public authorities to plan housing projects and finance them from public resources was enacted in 1936.¹⁵⁹ The Housing Authorities Law of that year provided that, in cities of more than twenty thousand population, twenty-five residents might by petition declare the need of a housing authority and institute thereby an inquiry into the housing situation by the city council. If after such inquiry the council should find (1) that unsanitary or unsafe inhabited dwelling accommodations exist in the city or (2) that there is a lack of safe or sanitary dwelling accommodations in the city available to families of low income at rentals they can afford, it became mandatory upon the council to declare the need for a housing authority. The council having declared the need for an authority, it became the duty of the mayor to appoint five commissioners to proceed with a program.¹⁶⁰

The powers of any housing authority set up under the act of 1936 were broad. Its "area of operations" extended to all territory within ten miles of the city boundaries. It was permitted to make contracts for construction of dwellings, to enter into agreements with the city for laying out of streets and for provision of utility services and other facilities, to plan zoning legislation for adoption by the city, to purchase real estate for housing projects, to actually manage and collect rentals on property, and so on.¹⁶¹

The 1940 legislature rewrote parts of the 1936 law and added several new sections greatly extending the benefits of the federal program.¹⁶² Under the new act public housing authorities may be established in any city of more than five thousand population (the 1936 law specified twenty thousand), in any parish of more than fifty-five thousand population, and in any combination of two or more parishes, regardless of population size. The new act also provides that in case local authorities refuse to declare the need for a housing authority, a petition of ten registered voters may force an election on the question, which question of establishing or not establishing a housing authority shall be determined by majority vote. Furthermore, in case the governing authorities of the city refuse to enact any ordinance proposed by

159. La. Act 275 of 1936 [Dart's Stats. (1939) §§ 6280.1-6280.28].

160. *Id.* at §§ 4, 5 [Dart's Stats. (1939) §§ 6280.4-6280.5].

161. *Id.* at §§ 2, 8 [Dart's Stats. (1939) §§ 6280.2, 6280.8].

162. La. Act 208 of 1940.

the housing authority for regulation of matters relating to a housing project, the ordinance may be approved by the same procedure of petition and referendum vote.¹⁶³

Under the 1940 act suburban housing will not be handled as it was under the original Housing Authorities Law. Heretofore any city housing authority could carry its housing projects into an "area of operations" extending to a distance of ten miles from the city's boundaries. Under the new act the "area of operations" of any city is limited to a distance of one mile from the corporation line. Housing in the densely settled region surrounding a city, but located more than one mile from the corporation line, must hereafter be provided through a parish housing authority or a regional housing authority.¹⁶⁴

Housing "for farm families of low income" will be provided by parish and regional housing authorities. Parish housing authorities are regulated, with certain exceptions, by the provisions which govern the creation, organization, and powers of city housing authorities.¹⁶⁵

Regional authorities are created as follows. The 1940 act provides that if the police juries of any two or more parishes, regardless of size, declare need for a common authority, a regional housing authority shall be established and shall supersede any separate parish housing authorities which may already be in existence. The law provides, however, that no parish that already has a parish authority burdened with outstanding obligations shall participate in the creation of a regional authority. Regional authorities shall be governed by a board of commissioners consisting of one member appointed by the police jury of each parish participating in the regional authority; if this provides an even number of commissioners, those commissioners who have been appointed shall select one additional person to serve with them. Regional authorities shall (with certain necessary exceptions) have the same powers in respect to housing as are conferred on city and parish authorities.¹⁶⁶

Parish and regional housing authorities are expected ordinarily to be concerned with rural housing projects only, but the governing body of any city may declare that the area of operations of any parish or regional authority may include the entire

163. *Ibid.*, adding §§ 3, 4 to the Housing Authorities Law.

164. *Id.* at § 3(f).

165. *Ibid.*, adding § 4, 4(d).

166. *Ibid.*, adding § 4(a)-(c).

area of operations of the said city, both within the city borders and within the one mile limit outside the city. In such a case the city housing authority shall cease to exist.¹⁶⁷

The new act also requires the Governor, with the advice and consent of the United States Housing Authority, to appoint a State Housing Coordinator. Any housing project originating with any city, parish, or regional authority shall be submitted to the Coordinator for examination, and he may, before transmitting it to the United States Housing Authority, return it to the local authority for reconsideration. The State Coordinator has not, however, the power to veto finally any project.¹⁶⁸

Acts 209 and 210 of 1940 supplement Act 208. Act 210 makes such changes in the language of the Housing Cooperation Law¹⁶⁹ as are made necessary by the extension of the Housing Authorities Law to rural areas and to cities of less than twenty thousand population. Act 209 revises and clarifies Section 23 of the Housing Authorities Law¹⁷⁰ which provides that the bonds and other obligations issued by a housing authority pursuant to the laws of Louisiana or issued by any other public housing authority in the United States, when secured by a pledge of annual contributions to be paid by the United States Government, shall be security for all public deposits and shall be negotiable and legal investments for officers, municipal corporations, political subdivisions, and commercial firms.

167. *Ibid.*, adding § 4, 4(a), (d).

168. *Ibid.*, adding § 4(f).

169. La. Act 277 of 1938 [Dart's Stats. (1939) §§ 6280.30-6280.37].

170. La. Act 275 of 1936, § 23 [Dart's Stats. (1939) § 6280.23].